

☒ R/W MANUAL CHANGE
(1993 Edition)

RWMC- 161

☐ PROCEDURAL HANDBOOK
(1984 Edition)

RWPH-____-____-____
TRANSMITTAL#____

TITLE:
CLEARANCE AND DEMOLITION

APPROVED BY:

DATE ISSUED:

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BARRY COWAN

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SUBJECT AREA:
CHAPTER 12 - CLEARANCE AND
DEMOLITION

ISSUING UNIT:
OFFICE OF REAL PROPERTY SERVICES

SUMMARY OF CHANGES: Revises Section 12.04.00.00. Adds new Exhibit 12-EX-03 as an example for a Bill of Sale. Updates the Table of Contents for sections and exhibits.

PURPOSE

This manual change deletes sentence about "no re-rent" policy and refers user to Property Management Section 11.01.00.00 for more information.

New Exhibit 12-EX-03 is added as an example of a Bill of Sale.

Formatting update was applied and, where applicable, general typographical errors were corrected.

PROCEDURES

- | | |
|-------------|--|
| 12.04.01.00 | Deletes sentence about Department's no re-rent policy and refers reader to Property Management Section 11.01.00.00 for more information. |
| 12.04.17.00 | Corrects "Bill of Sale" form number to new Exhibit 12-EX-03. |

EFFECTIVE DATE

Immediately.

MANUAL IMPACT

- Remove the superseded pages and insert the attached pages in the Manual.
- Record the action on the Revision Record.

REVISION SUMMARY

<u>Chapter</u>	<u>Remove Old Pages</u>	<u>Insert New/Revised Pages</u>
	Remove the following in its entirety:	Replace with the following in its entirety:
12 - Sections	Table of Contents 12.04.00.00 (Rev. 7/98)	Table of Contents (REV 11/2006) 12.04.00.00 (REV 11/2006)
12 - Exhibits	Table of Contents -----	Table of Contents REV 11/2006 12-EX-03 (NEW 11/2006)

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12.06.00.00	CLEARANCE AND DEMOLITION FLOW CHART
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12.04.00.00 - CLEARANCE PROCEDURE

12.04.01.00 Initial Clearance Procedures

Prior to environmental clearance, improvements must not be removed except in cases of emergency. An emergency is defined in the 1976 Caltrans Environmental Regulations (amended February 1977) as follows:

“A sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services. Emergency includes such occurrences as fire, flood, earthquakes or other soil or geologic movements, as well as such occurrences as riots, accidents or sabotage.”

After environmental clearance, a no re-rent policy is established on vacant units when the project is in the STIP and funds for normal right of way activities have been programmed. Vacated improvements on such projects are immediately cleared.

If rehabilitation is not economically feasible, improvements may be removed from the right of way prior to normal clearance scheduling when one or more of the following conditions exist:

- Retention of the improvements will result in a health and safety hazard.
- Improvements have been vandalized to the point that it is no longer economically feasible to restore them to rentable standards.
- A local governmental agency has condemned the improvements.

When improvements are to be removed for the above reasons, the reasons shall become part of the IDA. For all residential improvements, a qualified person shall prepare a financial analysis (disposal vs. rehabilitation), which is approved by the DDD-R/W and attached to the IDA. A copy of the financial analysis is sent to HQ R/W for information and review.

The above criteria apply to the removal of improvements from excess land in most cases, except that HQ R/W and FHWA approval must be obtained before such removal.

The Department's "no re-rent" policy and its exceptions are discussed in Property Management Section 11.01.00.00.

Factors the District should analyze in determining clearance schedules are:

- **Loss of Revenue** - to local governmental agencies if rental income to the Department of Transportation (Department) ceases and the local 24% share of such income ceases.
- **Increased Costs** - for debris pickup and weed abatement as improvements are removed.
- **Attractive Nuisance** - increased exposure to personal injury liability as neighborhood children, the homeless, and other individuals are attracted to cleared right of way.
- **Temporary Use Requests** - increased requests by local agencies and others to use cleared right of way temporarily for gardens, parks, and other quasi-public purposes that might result in complications when the Department prepares to construct the project.
- **Rental Income Balanced Against the Cost of Upkeep of the Rental Units** - such items as roof, sewer, plumbing, and heater repairs and management costs such as rent collections and delinquencies are to be considered.

In addition, the District shall issue Notices to Relocate to residential tenants in an orderly manner so the private housing market is not overwhelmed by a large number of households seeking replacement housing at the same time. An orderly relocation of households is imperative to avoid court-mandated replacement or replenishment housing programs.

When a parcel is transferred to clearance status for removal of acquired improvements and/or personal property, the Clearance Agent shall immediately schedule and process the items for clearance by preparing an IDA.

12.04.02.00 **Historic Structures**

All Department-owned historic structures are subject to the provisions of Public Resources Code 5024. No clearance or transfer of a historic structure shall occur until a formal historic evaluation is completed. District Clearance coordinates all activities involving structures over 50 years of age with the District Environmental Branch.

Prior to right of way clearance, the Agent annotates the file with the appropriate documentation as follows:

- The historic structure was included on historic preservation documentation in compliance with Federal or State regulations and all required mitigation work has been completed.
- The sale or transfer is pursuant to the terms of a historic preservation compliance agreement.
- The historic structure was not previously cleared on a project basis; the views of the State Historic Preservation Officer will be sought prior to clearance.

12.04.03.00 **Improvements With Asbestos Containing Construction Materials (ACCM)**

All improvements shall be inspected for the presence of ACCM, and a copy of the report placed in the permanent parcel file. District Clearance staff coordinates ACCM inspection and removal activities with the HWC. All activities must comply with the Environmental Protection Agency regulations and all State and local government laws, rules, statutes, and legislation (see 40 CFR Section 61.145).

If the improvements were not inspected at the appraisal or acquisition stage, the Clearance Agent must ensure that a licensed person completes an inspection prior to sale or demolition. Sale for relocation is considered the same as demolition.

The Clearance Agent ensures that any improvements containing ACCM will have the ACCM handled prior to demolition in accordance with applicable laws, regulations, and ordinances and the recommendations of the asbestos inspector. Removal of ACCM may be by separate contract or through the demolition process outlined below. License requirements of the local air pollution control district must be strictly followed.

12.04.04.00 **Rodent Control**

To prepare the structure for clearance, the Clearance Agent must have the structure inspected for rodents and document the inspection in the diary. Structures shall not be cleared if doing so will disseminate the rodents into neighboring properties. Extermination must be performed prior to clearance.

12.04.05.00 **Preparing the IDA**

The Agent includes an explanation and reason for sale or demolition in the IDA. Typical examples are:

- To clear for construction (specifying proposed project certification date).
- Not rentable due to poor condition and not warranting repair.
- To prevent theft and acts of vandalism.
- Moving and rehabilitating is not economically feasible.
- Substandard construction.

A financial analysis, prepared by a qualified person and approved by the DDD-R/W, must be attached to the IDA for any disposal of improvements, except when the purpose is to clear for construction. Comments and recommendations must indicate the project is environmentally cleared or must justify the emergency nature of the removal.

A recommended minimum acceptable bid is included in IDAs covering disposal of items such as buildings, furniture, and equipment by public sale. The bid is a designated percentage of the estimated market value of the improvements and is set forth in the IDA. Any large difference between the estimated market value and the recommended minimum bid must be explained.

The Agent who prepared the IDA and the individual in charge of Property Management or Improvement Clearance sign the IDA; the DD or authorized delegate approves it.

12.04.06.00 **Sale of Tools and Machinery to the Office of Equipment**

Right of Way should advise the Office of Equipment of the proposed sale of any usable tools and shop equipment that are reasonably new or are repairable. Of particular interest are lathes, drill presses, milling machines, metal brakes, metal shears, and automotive tools such as wheel balancers, brake drum lathes, tire truers, and lubrication equipment.

Such items are covered by an IDR and IDA. The Agent limits the IDR to items of possible interest and includes a statement that the items qualify for transfer to the Office of Equipment. A duplicate copy of the IDR is sent to the Office of Equipment with a statement that the IDA will be approved and the items disposed of by usual procedures unless a response requesting reservation of an item is received within two weeks.

It is not necessary for the District to consult the various shop superintendents. The decision to accept or reject tools and equipment lies exclusively with the Office of Equipment. Should they wish to acquire any items, the Office of Equipment will notify the District.

Transfers are documented as shown on the table entitled “Documentation of Transfer.” If coding is required, the Agent should check with P&M for correct coding.

DOCUMENTATION OF TRANSFER			
Funding	Documents	Value	Process
Federal Participation	<ul style="list-style-type: none"> • A memo to Accounting detailing the transaction • A Shipping Record (Form ADM-0245) prepared by R/W • A Receiving Record (Form FA1226A) prepared by Office of Equipment 	Dollar amount is established by the minimum acceptable bid.	Accounting performs the transaction and returns copies along with the TRAMS posting tag to be placed in the Inventory Disposal File in R/W for audit purposes.
State Only Funds	<ul style="list-style-type: none"> • A memo to Accounting detailing the transaction if a fund transfer is made • A Shipping Record prepared by R/W • A Receiving Record prepared by Office of Equipment • These records need not be coded for Accounting if no fund transfer takes place. 	<p>It is at District R/W’s discretion whether to charge for transfer of equipment. Consideration can be given to current market value of equipment versus salvage value and to clearance schedule. (For salvage value definition, see 7.08.05.00.)</p> <p>Whether or not fund transfer occurs, the documents must be in the Inventory Disposal File for audit purposes.</p>	

12.04.07.00 Sale of Personal Property

State-owned personal property may be disposed of separately or in conjunction with other improvements. If a stripping sale of fixtures is held on a major improvement that must be demolished, the Agent should take care to assign each fixture, or group of fixtures, an item number on the IDR. A separate list may be prepared, attached, and referenced on Form RW 12-1.

12.04.08.00 **Public Notification of Proposed Sale**

The Agent prepares a Notice of Sale describing the property to be sold and stating the time, place, and manner of sale. Copies are sent to anyone who might be interested in the sale, such as local real estate dealers, house movers, and wreckers. Copies are also mailed to local agencies with a request that they be posted in places commonly used for posting legal notices. Posting of the Notice on each improvement to be sold should also be considered.

12.04.09.00 **Content of the Notice of Sale**

The Notice of Sale is prepared as shown on Forms RW 12-4, RW 12-5, and RW 12-6. Proposal Form RW 12-7 is attached to the Notice for sealed bids. P&M must approve the Proposal Form prior to distribution to verify it has been coded properly. (See Exhibit 12-EX-02 for coding instructions.)

When a surety bond is necessary to ensure the removal of property, a reasonable amount covering faithful performance may be demanded from the successful bidder with DD approval. The Notice must provide that such bond is required and state the amount thereof.

12.04.10.00 **Advertising the Sale**

Sales are advertised as appropriate. The amount spent for advertising should reflect sound business judgment and be in relation to the value of the property.

12.04.11.00 **Terms of Sale - Furniture and Bedding**

The following conditions are included in the terms of sale when used or secondhand upholstered furniture and bedding are involved:

“The purchaser represents, warrants and certifies that he/she will undertake to procure and affix tags and labels, as required by law, and otherwise comply with the State laws pertaining to sterilization, resale, and reuse of articles of upholstered furniture, bedding and filling material, as defined in the California Business and Professions Code, Division 8, Chapter 3, Articles 1 to 10, inclusive.”

Copies of the terms of sale and the name and address of the successful bidder are forwarded to the Bureau of Home Furnishings.

12.04.12.00 **Post-Sale Field Inspections**

Clearance staff must inspect all properties sold to verify the purchaser has removed the improvements and conformed with all contractual obligations in the Notice of Sale and the executed proposal or bid form. The purchaser must immediately correct any unfulfilled contractual obligations. This will ensure that no difficulties arise in clearing the right of way and no dangerous conditions exist that could result in accidents. Special care should be exercised to avoid creating any hazardous conditions to neighborhood children, other individuals, or pets and other animals.

12.04.13.00 **Annual Purge of Mailing Lists**

The District must perform an annual review of mailing lists per Government Code Section 14911 to determine if current recipients wish to continue receiving notices. A return-addressed verification card should be attached to the material mailed. The card should provide a space on which the recipient can affix postage when returning the card to indicate a desire to remain on the mailing list.

The card should contain a statement similar to the following that states the mailing list is reviewed annually in accordance with State law:

“Your name is on our mailing list to receive notices for public sales of property. If you wish to continue receiving these notices, please sign and return this card. If this card is not returned by (specify date), your name will be removed from our list. This notice is required annually by Section 14911, Government Code. Please correct the address shown, if necessary; be sure to include zip code.”

12.04.14.00 **Conduct of Sale**

12.04.14.01 **Sale by Sealed Bid**

Representatives of Accounting and Right of Way open the bids at the District Office at the time prescribed in the Notice in the presence of the bidders. The Right of Way representative shall tabulate all bids and shall immediately turn over bidder's deposits to the Accounting representative.

The Accounting representative must have accurate information (Parcel No., Expenditure Authorization, Federal Aid Project No., and Object Code) to ensure proper coding of all documents. P&M must verify all coding information before it is given to Accounting.

If the highest bidder defaults in a sealed bid sale, the District may sell to the second highest bidder.

12.04.14.02 **Sale by Public Auction**

A public auction to dispose of property is conducted on the premises whenever possible. Representatives of Accounting and Right of Way, or a minimum of two representatives of Right of Way, attend the auction. A Right of Way representative shall be in charge of the auction.

Improvements to be sold should be opened for general public inspection immediately prior to the auction. The person conducting the auction should have enough copies of the Notice of Sale for people attending the auction. The auctioneer reads all the terms and conduct of the sale, including the minimum bid acceptable, preceding each sale. Adequate time is allowed for bidding before closing the sale.

The Right of Way representative must secure all necessary signatures on Proposal Form RW 12-7. The successful bidder signs the original proposal sheet and fills in their address and telephone number. The Accounting representative accepts the deposit in cash, cashier's check, money order, or certified check and delivers a receipt and a duplicate proposal sheet to the buyer. Accounting retains a copy of the proposal sheet to ensure the Department accounts for the revenue properly. Funds are placed in the special deposit account.

If the highest bidder is not prepared at the auction to furnish the required deposit in the manner prescribed by the Notice, the bidding may immediately be reopened and the property sold to the subsequent highest bidder. Alternatively, the sale may be rescheduled at the discretion of the Right of Way representative.

12.04.15.00 **Deposits**

The following deposits are required for sealed bid or auction sales. The deposits shall be based on the estimate of the market value of the items offered for sale, not on the minimum bid recommended in the IDR.

- | |
|---|
| <ul style="list-style-type: none">• Under \$1,200.00 Market Value - \$300.00 or full amount of the bid if less than \$300.00• Over \$1,200.00 Market Value - 25% of stated market value. |
|---|

12.04.16.00 **Deposit Return - Unsuccessful Bidders - Sealed Bid**

Immediately after the bid opening and upon written request of Right of Way, Accounting returns unsuccessful bidders' deposits by certified mail, return receipt requested. Except, the deposit furnished by the second highest bidder shall not be returned until the highest bidder has paid the total amount due the State. If an unsuccessful bidder is present when the deposits are released, the check may be delivered to the bidder and a receipt obtained.

12.04.17.00 **Bill of Sale**

The Bill of Sale must reflect the item number and description shown on the IDR. The DD or authorized delegate shall execute the Bill of Sale (Exhibit 12-EX-03) after the purchaser has paid the total amount due. The purchaser **SHALL NOT REMOVE ANY SALE ITEMS** until the District has received full payment.

12.04.18.00 **Breach of Contract**

The Notice of Sale and Terms of Sale contain provisions whereby the State shall retain all money paid to it up to the time the purchaser breaches the contract to offset actual damages sustained by the State as a direct result of the breach. Ordinarily, actual damages are determined by resale of the property that is subject to default. Sections 12.04.19.00 through 12.04.23.00 are based on the premise that, in the absence of proof to the contrary, the original sale price represented market value at the time of the breach of contract. The actual damages sustained are, therefore, the difference between the first and second sale prices, plus expenses.

The procedures detailed below are not applied to those cases where the bidder, after completing payment and furnishing surety bond, does not complete improvement removal in accordance with the agreed-upon obligations stated in Paragraph (1) of Forms RW 12-4, 12-5, or 12-6 or in the performance of any other agreed-upon obligation. In these cases, the State completes the work and bills the bonding company for the additional cost of completing the bidder's work. No refunds are made to the bidder.

12.04.19.00 **Defaults Not Fault of Bidder**

If the successful bidder defaults because of State's inability to convey title or any other cause not the fault of the bidder, the bidder's money shall be refunded pursuant to Division of Accounting instructions.

12.04.20.00 **Refunds**

The DDD-R/W or delegate of R/W notifies the Accounting Office by memorandum to prepare refund documents, fully itemizing the transaction per Section 12.04.23.00.

12.04.21.00 **Notification to Defaulted Bidder**

If there is a breach of contract, the Clearance function must immediately notify the defaulted bidder in writing, including the following information:

- **Nature of Breach of Contract** - e.g., failure to pay the balance due or provide the required bond.
- **Determination of Damages** - the bidder's money is retained pending determination of actual damages sustained by the State as a result of the breach.
- **Refundable Balance** - any refundable balance after deduction of actual damages sustained is remitted with an accounting of said money.

No money is to be returned to the defaulted bidder, whether the money is the required deposit only or the entire purchase price, except as provided in Section 12.04.23.00.

12.04.22.00 **Resales to Determine Damages Sustained**

The Clearance function schedules a resale of the subject property as promptly as practicable after the breach of contract. Timeliness is necessary to demonstrate good faith and to avoid any undue hardship a delay might cause a bidder whose money cannot yet be released. Actual damages are determined as follows:

ACTUAL DAMAGES	
Condition	Amount
Property sells for less than the original sales price	Difference between the two sales prices, plus all expenses for resale.
Property sells for an amount equal to or more than original sales price plus expenses	Zero.
Building cannot be resold, due to lack of interested bidders or impending project certification date	The demolition cost.
Highest bidder defaults on sale by sealed bid and the District sells to the second highest bidder	Difference between the two bids.
Demolition to be done by the State's highway contractor at a later date	An estimate of cost may be used to determine actual damages sustained by the State. If demolition is in the near future, Right of Way asks the resident engineer to document the actual cost.

12.04.23.00 **Statement of Damages Sustained**

After determining actual damages, the District provides the defaulted bidder with an accounting statement showing:

- Total amount paid to State on purchase of the property.
- Deduction for actual damages, if any.
- Refundable balance, if any.

If the actual damages sustained exceed the money on deposit, the District retains the entire amount and furnishes an accounting statement to the defaulted bidder.

The defaulted bidder is not billed for losses exceeding moneys paid up to the time of breach unless State has performed, or caused to be performed, work under Section 12.04.18.00. Then, all costs are to be recovered.

The Accounting Office schedules payment to the defaulted bidder when a refund is due.

CHAPTER 12

CLEARANCE AND DEMOLITION

Table of Contents

EXHIBITS

<u>Exhibit No.</u>	<u>Title</u>
12-EX-01	Notice of Lost or Stolen Property
12-EX-02	Coding Chart for Key Property Management Activities
12-EX-03	Bill of Sale

BILL OF SALE

12-EX-03 (NEW 11/2006)

(Form #)

Bill of Sale

Parcel No. _____

Co-Rte PM _____

State of California, Department of Transportation, of _____ [address of District] _____, in consideration of \$ _____ paid and delivered by _____ [name of buyer] _____ of _____ [address of buyer] _____, the receipt of which is hereby acknowledged, does hereby sell, assign, convey, transfer and deliver to _____ [name of buyer] _____ the following improvements and/or personal property:

Inventory Disposal Record (IDR) Item No. _____

Description _____

Inventory Disposal Record (IDR) Item No. _____

Description _____

To Have and to Hold the same unto the said buyer and the heirs, executors, administrators, successors and assigns of the buyer forever.

Dated this _____ [date] _____.

State of California
Department of Transportation

[Type name of DD or Authorized Delegate]